

Representative Tyler Clancy proposes the following substitute bill:

WORKPLACE VIOLENCE PROTECTIVE ORDERS

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill creates a workplace violence protective order.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows an employer to petition for a workplace violence protective order;
- ▶ requires an employer to notify certain individuals when seeking a workplace violence protective order;
- ▶ establishes relief a court may include as part of a workplace violence protective order;
- ▶ requires a court to take certain action after issuing a workplace violence protective order;
- ▶ establishes circumstances under which a court may modify or vacate a workplace violence protective order;
- ▶ requires a court to set a date for a hearing on a workplace violence protective order within a certain time period;
- ▶ establishes provisions related to the service, expiration, modification, and extension



- 26 of a workplace violence protective order;
- 27 ▶ provides a penalty for violating a workplace violence protective order;
- 28 ▶ limits liability of an employer for seeking or failing to seek a workplace violence
- 29 protective order; and
- 30 ▶ makes technical and conforming changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **78B-7-102**, as last amended by Laws of Utah 2022, Chapters 142, 430

38 ENACTS:

39 **78B-7-1101**, Utah Code Annotated 1953

40 **78B-7-1102**, Utah Code Annotated 1953

41 **78B-7-1103**, Utah Code Annotated 1953

42 **78B-7-1104**, Utah Code Annotated 1953

43 **78B-7-1105**, Utah Code Annotated 1953

44 **78B-7-1106**, Utah Code Annotated 1953

45 **78B-7-1107**, Utah Code Annotated 1953

46 **78B-7-1108**, Utah Code Annotated 1953

47 **78B-7-1109**, Utah Code Annotated 1953



49 *Be it enacted by the Legislature of the state of Utah:*

50 Section 1. Section **78B-7-102** is amended to read:

51 **78B-7-102. Definitions.**

52 As used in this chapter:

53 (1) "Abuse" means, except as provided in Section **78B-7-201**, intentionally or

54 knowingly causing or attempting to cause another individual physical harm or intentionally or

55 knowingly placing another individual in reasonable fear of imminent physical harm.

56 (2) "Affinity" means the same as that term is defined in Section **76-1-101.5**.

57 (3) "Civil protective order" means an order issued, subsequent to a hearing on the
58 petition, of which the petitioner and respondent have been given notice, under:

- 59 (a) Part 2, Child Protective Orders;
- 60 (b) Part 4, Dating Violence Protective Orders;
- 61 (c) Part 5, Sexual Violence Protective Orders; [~~or~~]
- 62 (d) Part 6, Cohabitant Abuse Protective Orders[~~;~~]; or
- 63 (e) Part 11, Workplace Violence Protective Orders.

64 (4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil
65 Stalking Injunctions.

66 (5) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an
67 individual who is 16 years old or older who:

- 68 (i) is or was a spouse of the other party;
- 69 (ii) is or was living as if a spouse of the other party;
- 70 (iii) is related by blood or marriage to the other party as the individual's parent,
71 grandparent, sibling, or any other individual related to the individual by consanguinity or
72 affinity to the second degree;
- 73 (iv) has or had one or more children in common with the other party;
- 74 (v) is the biological parent of the other party's unborn child;
- 75 (vi) resides or has resided in the same residence as the other party; or
- 76 (vii) is or was in a consensual sexual relationship with the other party.

77 (b) "Cohabitant" does not include:

- 78 (i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
- 79 (ii) the relationship between natural, adoptive, step, or foster siblings who are under 18
80 years old.

81 (6) "Consanguinity" means the same as that term is defined in Section 76-1-101.5.

82 (7) "Criminal protective order" means an order issued under Part 8, Criminal Protective
83 Orders.

84 (8) "Criminal stalking injunction" means a stalking injunction issued under Part 9,
85 Criminal Stalking Injunctions.

86 (9) "Court clerk" means a district court clerk.

87 (10) (a) "Dating partner" means an individual who:

88 (i) (A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7,
89 Emancipation; or

90 (B) is 18 years old or older; and

91 (ii) is, or has been, in a dating relationship with the other party.

92 (b) "Dating partner" does not include an intimate partner.

93 (11) (a) "Dating relationship" means a social relationship of a romantic or intimate
94 nature, or a relationship which has romance or intimacy as a goal by one or both parties,
95 regardless of whether the relationship involves sexual intimacy.

96 (b) "Dating relationship" does not include casual fraternization in a business,
97 educational, or social context.

98 (c) In determining, based on a totality of the circumstances, whether a dating
99 relationship exists:

100 (i) all relevant factors shall be considered, including:

101 (A) whether the parties developed interpersonal bonding above a mere casual
102 fraternization;

103 (B) the length of the parties' relationship;

104 (C) the nature and the frequency of the parties' interactions, including communications
105 indicating that the parties intended to begin a dating relationship;

106 (D) the ongoing expectations of the parties, individual or jointly, with respect to the
107 relationship;

108 (E) whether, by statement or conduct, the parties demonstrated an affirmation of their
109 relationship to others; and

110 (F) whether other reasons exist that support or detract from a finding that a dating
111 relationship exists; and

112 (ii) it is not necessary that all, or a particular number, of the factors described in
113 Subsection (11)(c)(i) are found to support the existence of a dating relationship.

114 (12) "Domestic violence" means the same as that term is defined in Section 77-36-1.

115 (13) "Ex parte civil protective order" means an order issued without notice to the
116 respondent under:

117 (a) Part 2, Child Protective Orders;

118 (b) Part 4, Dating Violence Protective Orders;

119 (c) Part 5, Sexual Violence Protective Orders; [or]

120 (d) Part 6, Cohabitant Abuse Protective Orders[-]; or

121 (e) Part 11, Workplace Violence Protective Orders.

122 (14) "Ex parte civil stalking injunction" means a stalking injunction issued without
123 notice to the respondent under Part 7, Civil Stalking Injunctions.

124 (15) "Foreign protection order" means the same as that term is defined in Section
125 78B-7-302.

126 (16) "Household animal" means an animal that is tamed and kept as a pet.

127 (17) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

128 (18) "Law enforcement unit" or "law enforcement agency" means any public agency
129 having general police power and charged with making arrests in connection with enforcement
130 of the criminal statutes and ordinances of this state or any political subdivision.

131 (19) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace
132 Officer Classifications.

133 (20) "Qualifying domestic violence offense" means the same as that term is defined in
134 Section 77-36-1.1.

135 (21) "Respondent" means the individual against whom enforcement of a protective
136 order is sought.

137 (22) "Stalking" means the same as that term is defined in Section 76-5-106.5.

138 Section 2. Section 78B-7-1101 is enacted to read:

139 **Part 11. Workplace Violence Protective Orders**

140 **78B-7-1101. Definitions.**

141 As used in this part:

142 (1) "Employee" means an employee in the service of an employer for compensation.

143 (2) "Employer" means a person who employs an individual in this state.

144 (3) "Ex parte workplace violence protective order" means an order issued without
145 notice to the respondent under this part.

146 (4) "Protective order" means:

147 (a) a workplace violence protective order; or

148 (b) an ex parte workplace violence protective order.

149 (5) "Workplace violence" means knowingly causing or threatening to cause bodily

150 injury to, or significant damage to the property of, a person, if:

151 (a) the person is:

152 (i) an employer; or

153 (ii) an employee performing the employee's duties as an employee; and

154 (b) (i) the action would cause a reasonable person to feel terrorized, frightened,
155 intimidated, or harassed; or

156 (ii) the threat:

157 (A) would cause a reasonable person to fear that the threat will be carried out; and

158 (B) if carried out, would cause a reasonable person to feel terrorized, frightened,
159 intimidated, or harassed.

160 (6) "Workplace violence protective order" means an order issued under this part after a
161 hearing on the petition, of which the petitioner and respondent have been given notice.

162 Section 3. Section **78B-7-1102** is enacted to read:

163 **78B-7-1102. Petition for a workplace violence protective order -- Notice to known**
164 **targets of workplace violence.**

165 (1) An employer may seek, or authorize an agent to seek, a protective order in
166 accordance with this part, if the employer reasonably believes workplace violence has occurred
167 against the employer or an employee of the employer.

168 (2) If an employer seeking a workplace violence protective order as described in
169 Subsection (1) has knowledge that a specific individual is the target of workplace violence, the
170 employer shall make a good faith effort to notify the targeted individual that the employer is
171 seeking a workplace violence protective order.

172 Section 4. Section **78B-7-1103** is enacted to read:

173 **78B-7-1103. Workplace violence protective orders -- Ex parte workplace violence**
174 **protective orders -- Modification of orders.**

175 (1) If it appears from a petition for a protective order or a petition to modify an existing
176 protective order that workplace violence has occurred, the court may:

177 (a) without notice, immediately issue an ex parte workplace violence protective order
178 against the respondent or modify an existing workplace violence protective order ex parte, if
179 necessary to protect the petitioner or any party named in the petition; or

180 (b) upon notice to the respondent, issue a workplace violence protective order or

181 modify a workplace violence protective order after a hearing, regardless of whether the
182 respondent appears.

183 (2) The court may grant the following relief with or without notice or a hearing in a
184 protective order or in a modification to a protective order:

185 (a) enjoin the respondent from committing workplace violence;

186 (b) enjoin the respondent from harassing the petitioner or an employee of the petitioner
187 while performing the employee's duties as an employee;

188 (c) prohibit the respondent from telephoning, contacting, or otherwise communicating
189 with the petitioner or an employee of the petitioner while performing the employee's duties as
190 an employee; or

191 (d) order that the respondent is excluded and shall stay away from the petitioner's
192 workplace.

193 (3) After the court issues a protective order, the court shall:

194 (a) as soon as possible, deliver the order to the county sheriff for service of process;

195 (b) transmit electronically, by the end of the business day after the day on which the
196 court issues the protective order, a copy of the protective order to the local law enforcement
197 agency that the petitioner designates; and

198 (c) transmit a copy of the protective order in the same manner as described in Section
199 [78B-7-113](#).

200 (4) The court may modify or vacate a protective order after notice and hearing, if the
201 petitioner:

202 (a) (i) is personally served with notice of the hearing, as provided in the Utah Rules of
203 Civil Procedure; and

204 (ii) appears before the court to give specific consent to the modification or vacation of
205 the provisions of the protective order; or

206 (b) submits an affidavit agreeing to the modification or vacation of the provisions of
207 the protective order.

208 Section 5. Section **78B-7-1104** is enacted to read:

209 **78B-7-1104. Hearings -- Expiration.**

210 (1) (a) A court shall set a date for a hearing on the petition to be held within 21 days
211 after the day on which the court issues an ex parte workplace violence protective order.

212 (b) If, at the hearing described in Subsection (1)(a), the court does not issue a
213 workplace violence protective order, the ex parte workplace violence protective order expires
214 on the day on which the hearing is held, unless the court extends the ex parte workplace
215 violence protective order.

216 (c) Subject to Subsection (1)(d), a court may not extend an ex parte workplace violence
217 protective order beyond 21 days after the day on which the court issues the ex parte workplace
218 violence protective order, unless:

219 (i) a party is unable to be present at the hearing for good cause, established by the
220 party's sworn affidavit;

221 (ii) the respondent has not been served; or

222 (iii) exigent circumstances exist.

223 (d) If, at the hearing described in Subsection (1)(a), the court issues a workplace
224 violence protective order, the ex parte workplace violence protective order remains in effect
225 until service of process of the workplace violence protective order is completed.

226 (e) A workplace violence protective order issued after notice and a hearing remains in
227 effect for a period the court determines, not to exceed 18 months after the day on which the
228 court issues the order, unless the order is extended in accordance with Section [78B-7-1105](#).

229 (f) (i) If the hearing on the petition is heard by a commissioner, either the petitioner or
230 respondent may file an objection within 10 calendar days after the day on which the
231 commissioner enters the recommended order.

232 (ii) If a party files an objection as described in Subsection (1)(f)(i), the judge shall hold
233 a hearing on the objection within 21 days after the day on which the party files the objection.

234 (2) (a) If a court denies a petition for an ex parte workplace violence protective order or
235 a petition to modify a workplace violence protective order ex parte, the petitioner may, within
236 five days after the day on which the court denies the petition, request a hearing.

237 (b) If the petitioner requests a hearing as described in Subsection (2)(a), the court shall:

238 (i) set a hearing to be held within 21 days after the day on which the petitioner makes
239 the request; and

240 (ii) notify and serve the respondent.

241 Section 6. Section **78B-7-1105** is enacted to read:

242 **78B-7-1105. Extension.**

243 (1) A workplace violence protective order expires automatically, unless the petitioner:
244 (a) files a motion before the day on which the workplace violence protective order
245 expires; and
246 (b) demonstrates that:
247 (i) there is a substantial likelihood that the petitioner an employee of the petitioner
248 while performing the employee's duties as an employee; or
249 (ii) the respondent committed or was convicted of a violation of the workplace
250 harassment protective order that the petitioner requests be extended.

251 (2) (a) Subject to Subsection (2)(b), if a court grants a motion described in Subsection
252 (1)(a), the court shall set a new date on which the workplace violence protective order expires.

253 (b) A court may not extend a workplace violence protective order for more than 18
254 months after the day on which the court issues the order for extension.

255 (3) After the day on which the court issues an extension of a workplace violence
256 protective order, the court shall take the action described in Subsection [78B-7-1103\(3\)](#).

257 (4) This part does not prohibit a petitioner from seeking another protective order after
258 the day on which the petitioner's protective order expires.

259 Section 7. Section **78B-7-1106** is enacted to read:

260 **78B-7-1106. Service of process.**

261 (1) The county sheriff that receives an order from a court under Subsection
262 [78B-7-1103\(3\)](#) or [78B-7-1105\(3\)](#), shall:

263 (a) provide expedited service for the protective order; and

264 (b) after the protective order is served, transmit verification of service of process to the
265 statewide network described in Section [78B-7-113](#).

266 (2) This section does not prohibit another law enforcement agency from providing
267 service of process if the law enforcement agency:

268 (a) has contact with the respondent; or

269 (b) determines that, under the circumstances, providing service of process on the
270 respondent is in the best interest of the petitioner.

271 Section 8. Section **78B-7-1107** is enacted to read:

272 **78B-7-1107. Penalties.**

273 A violation of a protective order issued under this part is a class A misdemeanor.

274 Section 9. Section **78B-7-1108** is enacted to read:

275 **78B-7-1108. Employer liability.**

276 (1) An employer is immune from civil liability for:

277 (a) seeking a workplace violence protective order, if the employer acts in good faith in

278 seeking the order; or

279 (b) failing to seek a workplace violence protective order.

280 (2) An employer's action or statement made under this part:

281 (a) is not an admission of any fact; and

282 (b) may be used for purposes of impeachment.

283 Section 10. Section **78B-7-1109** is enacted to read:

284 **78B-7-1109. Limitations of part.**

285 This part does not:

286 (1) modify the duty of an employer to provide a safe workplace for the employees of

287 the employer;

288 (2) prohibit a person from engaging in constitutionally protected exercise of free

289 speech, including speech involving labor disputes concerning organized labor; or

290 (3) prohibit a person from engaging in an activity that is part of a labor dispute.